IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 564 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GANESHBHAI UKABHAI DABHI
Versus
VALERA HAMIRBHAI DUDABHAI AND ANOTHER

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Appearance :
MR MINESH C DAVE for Applicant.
MR LALJIBHAI PARMAR for Opponent No. 1.
RULE SERVED for Opponent No. 2.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 27/02/2006

ORAL JUDGMENT

By filing this civil revision application under Section 115 of the Civil Procedure Code, the applicant, who is original defendant No.1 has prayed for quashing and setting aside the order passed by learned

Assistant Judge, Surendranagar on 23rd March, 1999 in Civil Misc. Appeal No.9/1999. Respondent No.1 herein has filed Regular Civil Suit No.22/1999, against the present applicant and respondent No.2. Aforesaid suit is filed for declaration and injunction on the ground that the defendants have no right, title or interest in the suit property and that they have not right to make any construction in the suit property, which belongs to the plaintiff. In that suit, plaintiff has also given an injunction application at exh.5. Learned trial Judge granted interim injunction asking the defendants to maintain status quo. Against the said order, the applicant herein, who is original defendant No.1 in the suit, preferred an appeal under Order 43 of the Civil Procedure Code. Learned appellate Judge by impugned order rejected the said appeal and confirmed the order passed by the trial Court, by which the defendants are restricted from making any construction in the suit property. Against the aforesaid order of the appellate Court, this revision application is filed.

This revision application is filed under Section 115 of Civil Procedure Code against an interim order in the suit. In view of the amendment in Section 115, this revision application is not maintainable as it would not dispose of the main proceedings. Even otherwise, in view of the judgement of the Supreme Court reported in AIR 1973 SC 76, no jurisdictional error committed by the trial Court, which requires interference of this Court.

Accordingly, this revision application is disposed of as not maintainable. Rule is discharged. No order as to costs.

(P.B.MAJMUDAR, J.)

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